

REMARKS

Claim 161 has been amended, and claim 183 has been added. No new matter has been added. For instance, support for the amendments appears e.g. in the original claims.

Applicants respond to the prior Office Action as follows:

Claims 128, 141, 159, 161, 165, 172 and 174 were newly rejected under 35 U.S.C. 112, second paragraph. As grounds for the rejection, the following is stated in the Office Action (page 2):

Claims 128, 147, 165—all are unclear as to the 5%; claim 165 is unclear—each section can contain two ingredients, the total weight within 5%. It is unclear how to seal the packages prior to opening them (claim 172) and if all other claims are to open packages. Claim 174 ends with chemical, no longer recited in claim 165 or 147; there is no antecedent basis for “chemical entity” although all the ingredients are chemicals. The language is unclear as to how much the package weighs, how much each section weighs, and how many ingredients are in each section.

The rejection is traversed.

Contrary to the statement in the Office Action, claim 174 does not recite “chemical”. Chemical entity is also not recited in the pending claims.

Regarding 5% as recited in the claims, this is clear from the claim language itself as well as from reference to the supporting specification, as is proper. See, for instance, page 11, last paragraph.

Respectfully, Section 112, second paragraph does not require such disclosure in the claims as apparently contended in the Office Action. For instance, in *In re Rainer*, 134 USPQ at 346 (copy enclosed), the Court reversed a rejection under Section 112, second paragraph and noted:

It appears to us that the board is here confusing the requirements for claims with the function of the specification. One does not look to the claims to find out how to *practice* the inventions they define, but to the specification.

That mandate is also confirmed in the MPEP. For instance, Section 2173.02 of the MPEP states:

When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.

In view thereof, withdrawal of the rejection is requested.

Claims 128, 130-132, 135-144, 147, 149-151, 154-162, 165, 168-175, 178 and 179 were rejected under 35 U.S.C. 102, or in the alternative under 35 U.S.C. 103 over GB1474931 in view of Merck '67.

Claims 128, 130-132, 135-144, 147, 149-151, 154-162, 165, 168-175, 178, and 179 were rejected under 35 U.S.C. 103 over GB1474931 in view of Merck '67 and Maturura et al. (EP 0609056).

For the sake of brevity, the two rejections are addressed in combination. Each of the rejections is traversed.

All the pending claims are method claims that call for administration to a *specified dog* and that feed materials have selected for *the specified dog*.

For instance, Applicants' independent claims 128, 147 and 165 read as follows:

Claim 128. A method for administering feed materials to a specified dog, comprising:

- (a) providing a multiple-sectioned unitary package, the package comprising a plurality of package sections;
- (b) adding to two or more package sections two or more distinct edible feed materials that have been selected for the specified dog, the two or more package sections containing the two or more feed materials in an amount of within about 5 weight percent or less of a specified amount;

the two or more feed materials chosen from among feed, vitamins, minerals and protein supplements;

(c) administering the feed materials of the package to the dog.

Claim 147. A method for administering feed materials to a specified dog, comprising:

(a) providing a multiple-sectioned unitary package comprising a polymer material of construction,

the package comprising a plurality of package sections wherein each package section contains a distinct edible feed materials chosen from among feed, vitamins, minerals, chemical entities, electrolytes, proteins, and herbs; the plurality of package sections containing the one or more feed materials in an amount of within about 5 weight percent or less of a specified amount, wherein the two or more feed materials have been previously selected for the specified dog;

(c) administering the feed materials of the package to the specified dog.

Claim 165. A method for administering feed materials to a specified dog, comprising:

(a) providing a multiple-sectioned unitary package comprising a polymer material of construction,

the package comprising a plurality of package sections wherein each package section contains one or more edible feed materials chosen from among two or more of feed, vitamins, minerals, electrolytes, proteins, and herbs, wherein the one or more feed material have been previously selected for the specified dog;

the plurality of package sections comprising distinct feed materials and the plurality of package sections containing the one or more feed materials in an amount of within about 5 weight percent or less of a specified amount;

(b) administering the feed materials of the package to the dog.

The cited documents, whether considered or in combination, clearly do not teach such methods.

Among other things, the customized packaging and administration for a specified dog as Applicants claim is nowhere suggested in the cited documents.

Thus, GB-1474931 does not mention or otherwise "adding to one or more package sections one or more edible feed materials ***that have been selected for the specified dog***" as recited in each of Applicants' independent claims.

The Matsura document also is not relevant. Matsura merely reports a certain prescription composition. That composition is not selected for a particular dog. Use of a multiple-section package is not described in the Matsura document.


Moreover, of record is the Rule 132 Declaration of co-inventor Paal Gisholt, which details the significant commercial success provided by the claimed subject matters.

While Applicants firmly believe that a prima facie case under Section 103 has not been presented by the cited documents, it is also believed that any prima facie case that is contended to exist is fully rebutted by this Rule 132 Declaration.

In view thereof, reconsideration and withdrawal of the rejections are requested. See *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978) ("[r]ejections under 35 U.S.C. §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art."). See also Manual of Patent Examining Procedure §2143.03 ("To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.").

It is believed the application is in condition for immediate allowance, which action is earnestly solicited.

Respectfully submitted,

By 

Peter F. Corless

Registration No.: 33,860

EDWARDS ANGELL PALMER & DODGE
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 517-5557

Attorneys/Agents For Applicant